

**REMARKS**

**I. INTRODUCTION**

Claims 1, 10 and 19 have been amended. No new matter has been added. Thus, claims 1, 3-10 and 12-19 remain pending in this application. In view of the above amendments and following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

Applicant respectfully submits that the Examiner should enter the claim amendments because the amendments merely clarify the interpretation that was adopted by the Examiner as evidenced by the 35 U.S.C. § 112 rejection.

**II. The 35 U.S.C. § 112 REJECTIONS SHOULD BE WITHDRAWN**

Claims 1, 10 and 19 are rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the enablement requirement. (See 06/27/2008 Office Action p. 3).

The Examiner rejected claims 1, 10 and 19 stating that, “The claims in their current form, require the same item to have been selected by both the user and a third party recommender...The specification, however, lacks any teaching that the same item is ever selected, nor that it is required to be selected, rather scores are generated for programs within a time period.” (See 06/27/2008 Office Action p. 3-4). Applicant respectfully disagrees. The Specification states “the third party recommendations can be filtered to only employ recommendation scores for programs that were actually watched or recorded by the third party.” (See Specification, p. 9, ll. 3-5). Therefore, Applicants submit that the limitations of claims 1, 10 and 19 are taught within the specifications and the 35 U.S.C. § 112 rejections should be withdrawn.

### **III. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN**

Claims 1, 3-7, 9-10, 12-16, and 18-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0174429 to Gutta et al. (hereinafter “Gutta”) in view of U.S. Patent No. 5,790,935 to Payton (hereinafter “Payton”) in further view of U.S. Patent No. 6,637,029 to Maissel et al. (hereinafter “Maissel”). (See 06/27/2008 Office Action, p. 4-8).

Gutta describes a system for recommending one or more television programs. (See Gutta Abstract). The system provides a list of one or more television programs to at least three different program recommenders, obtains from each recommender a recommendation score and computes a combined recommendation score by applying a voting process. (See Gutta Abstract).

Payton generally refers to the virtual delivery of on-demand digital information. Specifically, Payton teaches a collaborative filtering system that synthesizes the preferences of all of the subscribers and predicts the items the subscribers might like. (See Payton, col. 4, lines 7-14). The collaborative filtering system produces a list of recommended items based on a subscriber’s rating vector and the subscriber’s general likes and dislikes. (See Payton, col. 5, lines 6-21). To request an item, the subscriber interface displays this list of recommended items to the subscriber, wherein the subscriber can select one of the items or request a menu of available items. (See Payton, col. 6, lines 26-31).

Maissel generally refers to an apparatus for allegedly improving an electronic program guide for use in a television system. Specifically, the apparatus may allow the viewer to edit information in a viewer preference profile. (See Maissel, col. 12, ll. 46-59). The viewer is allowed to provide information on programs the viewer prefers to view or does not prefer to view. (See Maissel, col. 12, ll. 46-59). One of the options disclosed is to allow the viewer to instruct the apparatus to include (or not include) programs recommended by one or more critics in the program guide. (See Maissel, col. 13, ll. 5-7). In other words, the viewer, according to Maissel, may choose to accept all programs recommended by one or more critics, or, alternatively, reject all programs recommended by one or more critics.

In response to the arguments presented in the Response submitted on March 5, 2008, the Examiner stated that “[t]he Examiner agrees that the score for the same item selected by both a user and a third party is not adjusted.” (See 06/27/2008 Office Action, p. 3). However, Applicant respectfully submits that claim 1 recites “selecting from said at least one selected third party recommender *at least one third party recommendation for said at least one of said available items* that reflects a history of selecting *said one or more items* by said at least one selected third party recommender; generating a third party recommendation score for said at least one of said available items *based on said selected third party recommendation*; and calculating an adjusted recommendation score for said at least one of said available items for said user, wherein said user recommendation score is adjusted *based on said third party recommendation score*.”

Thus, claim 1 recites that the third party recommendation for an item is generated based on selecting that item and the third party recommendation score is generated based on the third party recommendation. Furthermore, the adjusted recommendation score for an item is based on the third party recommendation score for that item. Therefore, claim includes adjusting the score for an item selected by both the user and a third party. This is the exact situation that the Examiner states is not disclosed by Payton. It appears that the Examiner may have disregarded this claim scope because of the rejection under 35 U.S.C. § 112, first paragraph. However, as described above, the claim scope is fully enabled and described by the specification.

Accordingly, Payton neither teaches nor suggests “calculating an adjusted recommendation score for said user, wherein said user recommendation score is adjusted based on said third party recommendation score” as recited in claim 1. The Examiner has admitted that Gutta fails to teach this limitation. (See 06/27/2008 Office Action, p. 5). Maissel does not cure this deficiency of Payton and Gutta. Therefore, Applicants submit that claim 1 is allowable. Because claims 3-7 and 9 depend from and, therefore, include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the reasons stated above with respect to claim 1.

Independent claim 10 recites, “calculate an adjusted recommendation score for said at least one of said available items for said user, wherein said user recommendation score is adjusted based on said third party recommendation score.” Thus, it is respectfully submitted that this claim is also allowable for at least the same reasons stated above with respect to claim 1 and the Board should overturn the Examiner’s rejection of this claim. Because claims 12-16 and 18 depend from and, therefore, include all the limitations of claim 10, it is respectfully submitted that these claims are also allowable for at least the reasons stated above with respect to claim 10.

Independent claim 19 recites, “a step to calculate an adjusted recommendation score for said at least one of said available items for said user, wherein said user recommendation score is adjusted based on said third party recommendation score.” Thus, it is respectfully submitted that this claim is also allowable for at least the same reasons stated above with reference to claim 1.

#### **IV. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN**

Claims 8 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gutta in view of Payton and Maissel in further view of U.S. Patent No. 5,754,939 to Herz et al. (hereinafter “Herz”). (See 06/27/2008 Office Action, p. 8).


Applicants submit that Herz does not cure the above-described deficiencies of Gutta, Payton, and Maissel with respect to claims 1 and 10. Because claim 8 depends from, and therefore, includes all the limitations of claims 1, it is respectfully submitted that this claim is also allowable for at least the reasons stated above with respect to claim 1. Because claim 17 depends from, and therefore, includes all the limitations of claims 10, it is respectfully submitted that this claim is also allowable for at least the reasons stated above with respect to claim 10.

**CONCLUSION**

In view of the above remarks, it is respectfully submitted that all the presently pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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